

REMARKS

Applicants appreciate the examination of the present application as evidenced by the final Office Action dated June 2, 2009 ("hereinafter, "Final Action"). Applicants further appreciate the indication that, upon further consideration in view of Applicants' previous response, Groups X-XV (i.e., method claims 14-37) have been rejoined. Currently, Claims 1, 3, 6, 8-13, 16, 19, 24, 25, 36, 38, and 40 are allowable. Claims 4, 5, 14, 17, 20-22, 26, 29, 30, 32-35, and 37 stand rejected, and claims 15, 18, 23, 27, 28, and 31 are objected to in the Final Action.

Applicants provide the amendments and remarks herein to expedite allowance of the present application as discussed in greater detail below. Applicants further respectfully request the courtesy of a telephone interview with the Examiner in the event that the Examiner does not believe that the present Amendment places the application in condition for allowance.

I. 35 U.S.C. §102(e) rejection in Office Action dated July 31, 2008

In the Office Action dated July 31, 2008, claims 1, 2, 10-13, 37, 38 and 40 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,828,335 to Lowe et al. (hereinafter "Lowe et al."). In particular, the Examiner pointed out that compound 12 of formula III in columns 73 and 74 in Lowe et al. anticipates the rejected claims.

As conveyed to the Examiner during the teleconference dated May 20, 2009, Applicants believe that there is subject matter that is not anticipated by Lowe et al. In an effort to advance prosecution and allowance of some of this subject matter, claims 1 and 3 have been amended to readdress the § 102(e) rejection. In the amended claims, L recites, among other things, $-(CH_2)_m-X-$, and m is 2 or 3. In Lowe et al., however, compounds of formula III cited by the Examiner require L being $-(CH_2)_m-O-$ and m is 1. Therefore, Lowe et al. does not disclose the compounds recited in the amended claims, even if Ar is phenyl. Therefore, the rejection of claims 1, 10-13, 37, 38 and 40 is moot in view of the claim amendments, and Applicants respectfully request that this rejection be withdrawn.

II. 35 U.S.C. § 112, second paragraph, rejection

Claims 4 and 5 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. *See* Office Action, page 3. In particular, the Office Action asserts that claims 4 and 5 recite "Ar is phenyl", but there is insufficient antecedent basis for this recitation since claim 1 was amended to include only a 6-membered heteroaryl ring in the definition for Ar. *See* Office Action, page 3. However, claim 1 has been amended to include phenyl, and thus, there is antecedent basis for said recitation in claims 4 and 5. Accordingly, Applicants respectfully request that this rejection be withdrawn.

III. 35 U.S.C. § 112, first paragraph, rejection

Claims 14, 17, 20-22, 26, 29, 30, 32-35 and 37 stand rejected under 35 U.S.C. § 112, first paragraph, as lacking enablement in view of the recitations directed to "preventing" and "prophylaxis" (Office Action, page 4) and the assertion that the methods of treating diabetes, diabetes-related disorders and cardiovascular diseases are too broad as written (Office Action, page 5). In an effort to expedite allowance of the present application, Applicants have amended the claims to include the Examiner's suggestions. Namely, Applicants have amended claims 14, 17, 20, 21, 26, 29 and 37 as presented above, and Applicants have canceled claims 15, 18, 23, 27, 30 and 32-35.

IV. New claims 41-46 and amendment to claim 9

Applicants have added new claims 41-46. Claim 41 is directed to a specific compound disclosed in the originally filed application, and claim 41 is supported by compound 180 in Table 4a on page 108. New claims 42-46 are directed to method claims similar to those of rejoined method claims 14-37. The new claims present no new matter and are supported by the specification as originally filed. Applicants respectfully request entry thereof.

Applicants have also amended claim 9 to include the recitation "or a pharmaceutically acceptable salt thereof." This recitation is supported in the specification as originally filed,

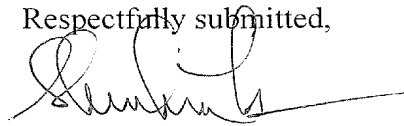
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for example, in claim 1. Accordingly, no new matter is presented by this amendment, and Applicants respectfully request entry thereof.

CONCLUSION

Accordingly, Applicants respectfully submit that the present application is in condition for allowance and the same is earnestly solicited. Should the Examiner have any small matters outstanding of resolution, the Examiner is encouraged to telephone the undersigned at 919-854-1400 for expeditious handling.

Respectfully submitted,

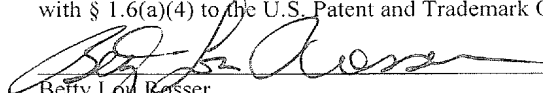


Shawna Cannon Lemon
Registration No. 53,888

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401

CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on September 30, 2009.


Betty Lou Rosser
Date of Signature: September 30, 2009